



APPENDIX 15



713 760-6634  
512-939-8501

AIAP

KFCC

1270 AM

Chameleon Radio Corporation

(713) 575-1270 Fax: (713) 564-8653

10865 Rockley Road Houston, TX 77099 P.O. Box 1235 Stafford, TX 77497

Houston's Unique Talk and International Language Station

September 22, 1995

Roy Stewart, Chief  
Mass Media Bureau  
Federal Communications Commission  
1919 M St., N.W.  
Washington, D.C. 20554

Re: FCC letter of September 8, 1995 (1800B3-KDY)

Mr. Stewart:

This letter is tendered in response to a letter dated September 8, 1995 from the office of Larry Eads, Chief, Audio Services Division. However, in light of Mr. Eads' resignation effective October 1, 1995, this letter is being directed to your office.

Chameleon Radio Corporation ("Chameleon"), licensee of KFCC (AM) Bay City, Texas, respectfully requests the Commission's forbearance and reconsideration of its September 8, 1995 decision to cancel Chameleon's special Temporary Authority to broadcast from the Harris County site.

Section 309(f) of the Communications Act states "extraordinary circumstances requiring temporary operations in the public interest..." are allowed. The action taken by Commission staff in canceling Chameleon's STA completely ignores the extraordinary circumstances faced by Chameleon and detailed in its previous communications on the matter. Quite literally, Chameleon was faced with only two options, cease to exist thereby depriving the nearly three dozen international language communities served by KFCC of their only broadcast outlet, or find another venue from which to continue broadcasting.

①

Under provisions of Section 309 of the act, the "extraordinary circumstance" faced by Chameleon must be acknowledged, but in its September 8th letter, Chameleon's situation was completely ignored as were the needs of the international communities it serves.

The cancellation of Chameleon's STA was subjective, arbitrary, and capricious for several reasons. First, dozens of STA applications were granted in recent years to broadcasters who constructed new transmitter sites closer to cities much larger than their city of license. However, this occurred when May Bradfield was in the position of determining which STA requests were granted. Policies regarding STA's changed dramatically when Ms. Bradfield was moved to another branch within the Commission and Mr. John Vu assumed Ms. Bradfield's responsibilities. Mr. Vu refused to authorize new tower construction even though he could not logically defend his position in the matter. It is clear; however, that a different bureaucrat produced different and quite arbitrary "rules."

The September 8th letter further states, "it is not our (the Commission's) policy to authorize new construction intended to be for permanent operations pursuant to STA. Again, we cite the common practice of allowing new antenna construction under Ms. Bradfield's guidelines and the contrasting prohibition now. As stated in the September 8th letter, this policy flies in the face of common sense. Instead, the policy should directly encourage such construction as long as the site is intended to be made the permanently licensed site. Only from such a site, or one licensed within three kilometers of it, can field strength readings be taken which are essential to establishing true ground conductivity from a new site thus allowing for the most efficient use of the spectrum.

Such construction also conserves the resources of the licensee since antenna construction can be made part of a permanent license later, thus saving additional construction expense, not to mention land acquisition, potential zoning problems, environmental damage, etc.

In addition to ignoring the needs of Houston's international community as well as Chameleon's extraordinary circumstances, Commission staff appears to imply in its September 8th letter that something was morally wrong Chameleon's STA operation. This is obvious from the last sentence in paragraph one of page five of the September 8th letter wherein the Commission dismisses the obligations and responsibilities of Chameleon to its programmers and instead complains that such a move deprives Bay City of a "licensed service it has *enjoyed* (emphasis added) for more than forty years." This advocacy of the old Bay City site is curious and remarkable in light of the fact that KFCC (formerly KIOX) had spent most of the last several years in a simulcast operation with its sister FM station and was considered "nothing but a liability" by its previous licensee and except for one weekend programmer was providing no local service to its city of license.

Cancellation of the STA at this point would destroy not only Chameleon's business enterprise, but also more than thirty other business entities; the programmers on KFCC.

Since commencement of operations from its STA site, KFCC has provided a service to communities that heretofore were completely unserved in one of the nation's largest metropolitan areas. All programmers on the station (Greek, Russian, Pakistani, Indian, etc.) support their programming efforts through the sale of commercial time and supply daily news, religious, and entertainment events to their respective communities. A blind cancellation of the STA fewer than 30 days prior to the cutoff date of Chameleon's currently pending 301 is completely illogical. It will destroy every one of these businesses.

Cancellation of the STA makes no sense from a technical standpoint either. The 300 watt STA operation of KFCC reduces rather than increases overlap to KWHI at Brenham, Texas. While a very minor amount of new overlap is created by the STA of KFCC, it is more than offset by the nearly 50% reduction in previously licensed overlap in other areas. In fact, as presently constituted, KFCC's STA complies with the spirit of MM Docket 87-267 in that first channel overlap which has been in place for more than 30 years is reduced by the nearly 50% as indicated above.

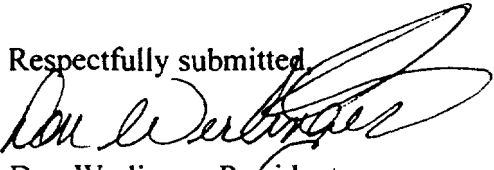
Cancellation of the STA also greatly jeopardizes the possibility that Chameleon would be able to construct permanent facilities sought in its currently pending application (BP-950804AC) which will eliminate virtually all the previously licensed overlap between the two stations.

In conclusion, KFCC's STA operation provides a needed service previously unavailable anywhere in southeast Texas. It is not merely another music or talk outlet but a unique vehicle for discriminating information to hundreds of thousands of legal immigrants from five different continents, and this is occurring on a radio station that previously had provided virtually no local service to its community.

Chameleon has shown good faith in proposing to make its site permanent and stands ready to construct the new facilities immediately upon approval of the Construction Permit sought in application BP-950804AC. The acceptance for filing and placement of the application on an October 6, 1995 cutoff clearly indicates the proposed facilities of KFCC meet the Commission's requirements and standards. Cancellation of the STA at this time, only weeks before cutoff is illogical, and counterproductive. It threatens the survival of Chameleon and its many programmers. Finally, the overall overlap situation with KWHI at Brenham, Texas is in fact, improved by KFCC's STA operation.

In light of the above, Chameleon respectfully requests the Commission's forbearance and reconsideration of its September 8th letter pending approval of its form 301 request to make the site permanent.

Respectfully submitted,

  
Don Werlinger, President

cc: Honorable Ken Bentsen  
U.S. House of Representatives

Honorable John Bryant  
U.S. House of Representatives

Honorable Gene Green  
U.S. House of Representatives

Honorable Ralph Hall  
U.S. House of Representatives

Honorable Greg Laughlin  
U.S. House of Representatives

Honorable Sheila Jackson-Lee  
U.S. House of Representatives

Honorable Charlie Wilson  
U.S. House of Representatives

Honorable Reed Hundt, Chairman ✓  
Federal Communications Commission

KFCC Public Inspection File

(4)



KFCC

1270 AM

Chameleon Radio Corporation

(713) 575-1270 Fax: (713) 564-8653

10865 Rockley Road Houston, TX 77099 P.O. Box 1235 Stafford, TX 77497

Houston's Unique Talk and International Language Station

September 29, 1995

Roy Stewart, Chief  
Mass Media Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Chameleon Radio Corp., KFCC

Mr. Stewart:

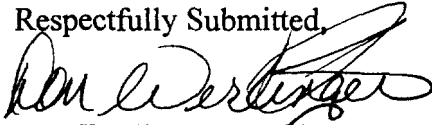
It has come to my attention that in conversations between several congressional aides and the office of James Burtles, Mr. Burtles has claimed Chameleon Radio Corporation ("Chameleon") violated Commission policy with regard to the "loss" of its Bay City, Texas transmitter site and the acquisition of its Southwest Harris County STA site. As the attached documents prove, the Bay City site was retained by the previous owner, Landrum Enterprises, Inc. ("Landrum"), as a condition of the purchase of KFCC (formerly KIOX). This arrangement was formalized through a lease back agreement that was signed simultaneous to closing on April 20, 1995. Again, we emphasize this lease back occurred as a condition of sale. On April 28, 1995, one week later, Chameleon entered into a lease/purchase agreement for the new site.

As has been clearly stated in previous correspondence and verbally in the May 25, 1995 meeting between Chameleon President Don Werlinger and then Audio Services Chief Larry Eads, it was never the intention of Chameleon to occupy the Bay City, Texas site because in fact, Landrum operates an FM station from the Bay City site. Landrum sold the AM to remove a business liability and intended to remain in the Bay City location. Therefore, upon closing on April 20, 1995, KFCC (then KIOX AM) immediately ceased operations from the Bay City location and did not return to the air until authorization and construction of the Harris County site was completed.

5

Chameleon continues to be surprised and disturbed by what it considers to be an unwarranted and wrong headed attack and demonization of a licensee whose only goal is to provide a meaningful broadcast service to a heretofore unserved minority segment of the southeast Texas population. Your immediate attention to this matter is appreciated.

Respectfully Submitted,



Don Werlinger, President

6





APPENDIX 16

FGC MAIL SECTION

**FEDERAL COMMUNICATIONS COMMISSION**

Oct 17 1 17 PM '95

Washington, D.C. 20554

OCT 11 1995

DISPATCHED BY

In Reply Refer To:  
1800B3-KDY

Charles Cervantes, Esquire  
Maloney & Burch  
Suite 1200  
1100 Connecticut Ave., NW  
Washington, DC 20036-4101


In re: KFCC(AM), Bay City, Texas  
Special Temporary Authority

Dear Mr. Cervantes:

This is in reference to the September 8, 1995 letter from Larry D. Eads, Chief, Audio Services Division, Mass Media Bureau to Don Werlinger ("Bureau Letter"). The Bureau Letter: (1) cancelled Special Temporary Authority ("STA") authorizing Chameleon Radio Corporation ("Chameleon") to operate station KFCC(AM), Bay City, Texas, at variance from its licensed parameters; (2) denied Chameleon's August 4, 1995 request for extension of that STA; (3) required KFCC(AM) to immediately resume operations from its licensed site in Bay City, Texas; and (4) granted an objection to the STA filed by Tom S. Whitehead.<sup>1</sup>

Pending Commission action on this matter, the Bureau's cancellation of the STA IS HEREBY STAYED. Accordingly, Chameleon's August 4, 1995 request for an extension of the STA and the objection filed by Tom S. Whitehead are returned to pending status.

Sincerely,



Linda Blair,  
Acting Chief  
Audio Services Division  
Mass Media Bureau

cc: Mr. Don Werlinger  
John Joseph McVeigh, Esquire  
Counsel for Tom S. Whitehead  
CIB Houston

|  |                           |
|--|---------------------------|
| <u>Federal Communications Commission</u> |                           |
| Docket No. <u>96-173</u>                 | Exhibit No. <u>App 16</u> |
| Presented by <u>Chameleon</u>            |                           |
| Disposition                              | Identified <u>X</u>       |
|  | Received <u>X</u>         |
|  | Rejected <u>      </u>    |
| Reporters <u>YJ</u>                      |                           |
| Date <u>2-24-97</u>                      |                           |

<sup>1</sup> The Bureau Letter also dismissed an objection filed by South Texas Broadcasting, Inc. ("South Texas")



APPENDIX 17

## **AGREEMENT OF PURCHASE AND SALE OF ASSETS**

This Agreement (this "Agreement") is made as of the 10th day of March, 1995, by and between CHAMELEON RADIO CORPORATION, a Texas corporation ("Buyer"), and LANDRUM ENTERPRISES, INC., a Texas corporation ("Seller").

### **WITNESSETH:**

WHEREAS, Seller owns and operates radio broadcast station KIOX-AM in Bay City, Texas (the "Station"); and

WHEREAS, subject to the required consent of the Federal Communications Commission (the "FCC") and the terms and conditions set forth in this Agreement, Seller desires to sell, and Buyer desires to purchase, all the real property, personal property, tangible and intangible assets of Seller used in the operation of the Station;

NOW, THEREFORE, in consideration of the premises and the mutual covenants, considerations and promises herein made, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## **ARTICLE I**

### **PURCHASE AND SALE OF ASSETS**

1.1 **Sale of Assets.** Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell, convey, transfer, assign and deliver to Buyer, free and clear of all liens, claims, and encumbrances (except for Permitted Encumbrances as defined in Section 8.7 hereof), and Buyer agrees to purchase from Seller, all the real property, personal property, tangible and intangible assets used in the operation of the Station as presently being operated (excluding only the Excluded Assets as defined in Section 1.2 hereof), which assets are collectively referred to as the "Assets" and which include, without limitation, the following:

- (a) All the personal property, equipment, office machines, supplies, materials, furniture, fixtures, antennae, transmitting, broadcasting and receiving facilities and

equipment, control room facilities and equipment, generators and amplifiers, and all other tangible personal property of every kind and character owned by Seller and used in or in connection with the Station or the operation thereof, situated in Matagorda County, Texas including, without limitation, the property set forth and described on Exhibit 1.1A attached hereto (which said Exhibit and all Exhibits hereafter referred to are by such attachment and reference incorporated herein and made a part hereof for all purposes);

(b) All rights, licenses, permits and authorizations issued by any regulatory agency (including, without limitation, the FCC), service marks, copyrights, franchises, and other intangible personal property of the Seller of whatsoever kind and character which are used in or in connection with the operation of the Station, including, without limitation, all business, goodwill, licenses, authorizations and applications listed or referenced on Exhibit 1.1B annexed hereto; provided, however, that Seller shall retain, and the Assets shall not include, the right to use the call letters of the Station; provided, further, that with respect to FCC rights, licenses, permits, authorizations and applications (the "FCC Authorizations") Seller agrees to transfer such FCC Authorizations to Buyer to the extent same are assignable.

(c) All radio time and advertising agreements and all of those certain agreements, arrangements, commitments and understandings, written or oral, expressed or implied, material to the Station or to the operation thereof, to which Seller is a party or by which the Assets are bound which agreements, arrangements, commitments, and understandings are listed, described or referenced on Exhibit 1.1C annexed hereto (unless such agreements, arrangements, commitments or understandings were disapproved by Buyer in writing on or before the Closing Date, as contemplated by Exhibit 1.1C attached hereto);

(d) All real property, including, without limitation, land, improvements, fixtures, buildings, easements, appurtenances and agreements or arrangements of lease or other tenancies or rights of occupancy or use with respect to real property or interests therein and rights-of-way and all similar properties owned by Seller in connection with the Station, which are described or referenced on Exhibit 1.1D annexed hereto;

(e) All inventories (including, without limitation, inventories of materials, supplies and replacement parts and tapes, recorded programs and commercials and Seller's library of records, tapes and recordings) maintained by Seller for, or in connection with, the operation of the Station on the Closing Date; and

(f) All books and records (or copies thereof) owned by Seller and relating to the Assets or to their maintenance or efficient operation or to the business of the Station, including, but not limited to, books of account, journals and ledgers, customer lists, vendor files, repair and maintenance records, files, correspondence, memoranda, blue prints, maps, plats, drawings, specifications and other similar writings and archives.

1.2 Excluded Assets. Notwithstanding the foregoing, the following assets shall be retained by Seller and shall not be sold or transferred to Buyer (such retained assets being herein collectively called the "Excluded Assets"):

(a) Cash, bank balances, monies in possession of any banks or trust companies and similar cash items of Seller on hand on the Closing Date;

(b) Accounts receivable attributable to the Station and arising on or prior to the Closing Date;

(c) All real property owned by Seller which is not described or referenced on Exhibit 1.1D annexed hereto;

(d) All assets owned by Seller related to the operation or business of radio broadcast station KIOX-FM in El Campo, Texas (the "FM Station"), including the call letters "KIOX";

(e) All prepaid expenses, utility and other deposits accrued prior to the Closing Date; and

(f) All books, records and documents of the Seller including, without limitation, Seller's minute books, corporate seal, treasury stock, the name "Landrum Enterprises, Inc." and similar items relating to the corporation or the FM Station and not involving the Station or Assets to be transferred hereunder. Notwithstanding the foregoing, any of Seller's books, records and documents retained by Seller and required by Buyer in connection with the



operation of the Station shall, on reasonable notice, be made available to Buyer for examination and, to the extent reasonably necessary, duplication after the Closing at the office of Seller for a period of one (1) year.

1.3 Purchase Price. In consideration of the sale of the Assets under this Agreement, Buyer shall pay to Seller the sum of One Hundred Fifty Thousand Dollars (\$150,000), subject to adjustment pursuant to Section 1.3(c) (the "Purchase Price"). The Purchase Price is payable as follows:

(a) Simultaneously with the execution of that certain Agreement dated February 13, 1995 between Buyer and Seller, Buyer has paid into escrow, as a deposit against the Purchase Price, the amount of Ten Thousand Dollars (\$10,000), to be applied at the Closing against the Purchase Price. Such deposit will be held by John W. Saunders, Media Broker (the "Broker") until the Closing or earlier termination of this Agreement in accordance with the terms hereof;

(b) At the time the Application (as defined in Section 6.1 hereof) is filed with the FCC, Buyer shall pay into escrow, as a deposit against the Purchase Price, the amount of Fifteen Thousand Dollars (\$15,000), to be applied at the closing against the Purchase Price. Such deposit will be held by the Broker until the Closing or earlier termination of this Agreement in accordance with the terms hereof; and

(c) At the Closing, Buyer shall (i) deliver to the Seller a Promissory Note (in the form attached hereto as Exhibit 1.3) in the amount of One Hundred Thousand Dollars (\$100,000) (the "Promissory Note") and (ii) pay to Seller the additional sum of Twenty-Five Thousand Dollars (\$25,000) in immediately available funds by wire transfer or, at Seller's option, by certified check; provided, however, that Buyer shall have the option at Closing to pay to Seller a cash amount equal to One Hundred and Ten Thousand Dollars (\$110,000) in lieu of the Promissory Note and cash payment required by clauses (i) and (ii) of this Section 1.3(c), in which case the total Purchase Price shall be One Hundred and Thirty-Five Dollars (\$135,000).

1.4 Assumption of Liabilities. At Closing, Buyer shall assume the Assumed Liabilities (as hereinafter defined) pursuant to a written assumption agreement ("Assumption

Agreement") in substantially the form of Exhibit 1.4 attached hereto. As used in this Agreement, the term "Assumed Liabilities" shall mean (i) the liabilities, duties and obligations of Seller which accrue after the Closing Date under those leases, contracts, licenses and other agreements and instruments expressly listed or referenced on Exhibit 1.1C attached hereto (unless such agreements, arrangements, commitments or understandings were disapproved by Buyer in writing on or before the Closing Date, as contemplated by Exhibit 1.1C attached hereto), (ii) any sales tax which may be payable with respect to the sale of the Assets pursuant hereto, and (iii) such other obligations and liabilities of Seller, if any, as Buyer shall expressly agree to assume in the Assumption Agreement. The parties hereto acknowledge and agree that the Assumed Liabilities are the only liabilities and obligations of Seller being assumed by Buyer and that, except to the extent expressly provided in the Assumption Agreement, the Assumed Liabilities shall not include any liability or obligation of Seller of any nature whatsoever existing or incurred by Seller on or prior to the date of the Closing.

1.5 Adjustments and Assumptions. The operation of the Station, and the income and expenses attributable thereto shall, except as otherwise expressly provided in this Agreement, be for the account of Seller up to 12:01 A.M. on the Closing Date and shall thereafter be for the account of Buyer. Expenses such as power and utility charges, lease rents, prepaid time sales agreements, wages, payroll taxes of employees of the Seller who enter the employment of Buyer, and similar prepaid deferred items shall be prorated between the Seller and Buyer. All prorations shall be made and paid insofar as feasible on the Closing Date, with the final settlement within ninety (90) days after the Closing Date. In the event of any dispute between the parties as to any such adjustments, such dispute shall be resolved by an independent certified public accountant mutually acceptable to the parties, whose determination shall be binding upon the parties, their successors and assigns, and the fees and expenses of such accountant shall be paid one-half (1/2) by Seller and one-half (1/2) by Buyer.

1.6 Accounts Receivable. Seller shall retain all accounts receivable arising on or prior to the Closing Date relating to the Station. Buyer's sole responsibility with respect to such accounts receivable shall be to forward to Seller any monies delivered by such account debtors ("Pre-

Closing Debtors") to Buyer after the Closing which monies are in payment of such accounts receivable arising on or prior to the Closing Date. Seller retains responsibility for all sales commissions payable with respect to such accounts receivable. Buyer acknowledges that Seller may and Seller will not be prohibited from pursuing its remedies available at law against Pre-Closing Debtors who are in default under accounts receivable arising on or prior to the Closing Date. Without limitation of the foregoing, Buyer further acknowledges and agrees that monies paid to Buyer within 60 days after the Closing Date shall be deemed to be payment of pre-Closing accounts receivable unless the Pre-Closing Debtor indicates otherwise to Buyer and Seller in writing.

1.7 Termination. Subject to the provisions of Section 1.8 hereof, this Agreement may be terminated by:

(a) The mutual consent of Seller and Buyer.

(b) Seller at any time on or prior to the Closing Date if (i) any of the representations or warranties of Buyer contained herein shall prove to be inaccurate in any material respect or Buyer shall materially breach any covenant or other obligation imposed on it pursuant to this Agreement, which breach continues unremedied for ten (10) days after notice thereof to Buyer or (ii) the conditions set forth in Section 5.2 hereof shall not have been met by the Closing Date, or under the circumstances described in Section 6.2 hereof.

(c) Buyer at any time on or prior to the Closing Date if (i) any of the representations or warranties of Seller contained herein shall prove to be inaccurate in any material respect or Seller shall materially breach any covenant or other obligation imposed on it pursuant to this Agreement, which breach continues unremedied for ten (10) days after notice thereof to Seller or (ii) the conditions set forth in Section 5.1 hereof shall not have been met by the Closing Date, or under the circumstances described in Sections 6.2 and 8.7 hereof.

(d) Seller or Buyer at any time after July 15, 1995, if the Closing Date shall not have occurred by such date for any reason by giving notice of such termination to the other party.

(e) Notwithstanding anything herein to the contrary, the rights and obligations of the Buyer and the Seller, respectively, under Section 1.8 and Section 10.5 hereof shall survive any termination of this Agreement.

1.8 Right to Receive Deposit Upon Termination.

(a) The deposits provided for in Sections 1.3(a) and (b) hereof are being held in escrow by the Broker until the Closing or earlier termination of this Agreement in accordance with the terms hereof.

(b) In the event that this Agreement is terminated by Seller pursuant to Section 1.7(b)(i) hereof or pursuant to Section 1.7(b)(ii) hereof provided that such termination is due to the failure of a condition set forth in subsections (a) or (b) of Section 5.2 hereof, and provided that Seller is not in breach of or default under any term or provision of this Agreement, the Buyer shall forfeit all right, title and interest in such deposits and the Seller shall be entitled to receive the full amount thereof, plus any accrued interest thereon, as liquidated damages for the Buyer's default hereunder (it being agreed that in light of the nature of the Assets, damages are impossible to calculate with any precision, that such amount is a reasonable estimate of Seller's damages in the event of Buyer's default hereunder and such amount is not intended as a penalty).

(c) In the event that this Agreement is terminated (i) pursuant to Section 1.7(a) hereof, (ii) by Seller pursuant to Section 1.7(b)(ii) hereof provided that such termination is due to the failure of a condition set forth in subsections (c) or (d) of Section 5.2 hereof or pursuant to Section 6.2 hereof, (iii) by Buyer pursuant to Section 1.7(c) hereof, or (iv) by either party pursuant to Section 1.7(d) hereof, the Buyer shall be entitled to receive the full amount of such deposit, plus any accrued interest thereon.

## ARTICLE II

### THE CLOSING

The Closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Andrews & Kurth L.L.P., located at 600 Travis, 4200 Texas Commerce

Tower, Houston, Texas 77002, at such time as may be agreed upon by the parties on a date not later than ten (10) days following satisfaction of all conditions precedent to Closing set forth in Article V hereof, including without limitation the receipt of a Final Order (as defined in Section 6.3 hereof) of the FCC, but in any event not later than July 15, 1995, unless extended by mutual agreement of Buyer and Seller. The actual date of Closing is herein called the "Closing Date."

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer that:

3.1 Organization and Authority. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, and has full power and authority to enter into this Agreement and to carry out the transactions contemplated hereby. The execution and delivery of this Agreement by Seller has been duly authorized by all necessary corporate action and this Agreement constitutes a valid and binding agreement enforceable against Seller in accordance with the terms hereof. To Seller's actual knowledge, except for obtaining the consent and approval of the FCC and the other required consents and approvals indicated on Exhibit 3.1 attached hereto, Seller has full right, power and authority to sell the Assets to Buyer pursuant to the terms hereof without the consent or approval of any third party or regulatory agency.

3.2 No Defaults. Except as disclosed in Exhibit 3.2 attached hereto, the execution, delivery and performance of this Agreement will not result in a material breach or violation by Seller of, nor constitute a default by Seller under, the Articles of Incorporation or Bylaws of Seller or any contract, permit, license, certificate, franchise, statute, ordinance, rule, regulation, agreement, instrument or order known to Seller and to which Seller is a party or by which Seller or any of the Assets are bound.

3.3 Properties and Liabilities.

(a) All material real and personal property owned or leased by Seller and currently used in the operation of the Station is described in Section 1.1 and Exhibits 1.1A through 1.1D.

Except as described in Section 1.1 and Exhibits 1.1A through 1.1D, there are no other material rights, assets or property used by Seller in connection with the business or the operation of the Station. Seller has (except as disclosed on Exhibit 3.3A hereto) and at Closing will have title to all of the Assets, free and clear of any and all liens, claims, mortgages, conditional sale agreements, charges or encumbrances of any nature whatsoever including, without limitation, those matters disclosed on Exhibit 3.3A hereto, except for the Permitted Encumbrances. All such encumbrances, other than the Permitted Encumbrances, shall be fully discharged and released on or prior to the Closing Date by Seller.

(b) At the Closing, Seller will sell, transfer and convey to Buyer title to the Assets, subject only to the Permitted Encumbrances by means of (i) a Bill of Sale and Assignment substantially in the form of the Bill of Sale and Assignment attached hereto as Exhibit 3.3B (the "Bill of Sale") with respect to the portion of the Assets consisting of personal property, (ii) a special warranty deed substantially in the form of the Special Warranty Deed attached hereto as Exhibit 3.3C (the "Special Warranty Deed") with respect to the portion of the Assets consisting of real property owned by Seller, and (iii) an assignment of leases substantially in the form of the Assignment of Leases attached hereto as Exhibit 3.3D (the "Assignment of Leases") with respect to the portion of the Assets consisting of real property leased by Seller.

(c) To the actual knowledge of Seller, the Assets are in good operating condition and repair (reasonable wear and tear excepted), and no notice of any violation of zoning, building or other regulating laws, statutes, and regulations relating to such property and assets which would materially adversely affect the Assets or operation thereof, has been received and not resolved on or prior to the date hereof.

(d) A true and complete list and description of the insurance policies maintained by or on behalf of Seller with respect to the Station is annexed hereto as Exhibit 3.3E.

3.4 Contracts. Exhibits 1.1C and 1.1D include (or reference) a true and accurate list of each written lease, agreement, commitment and contract and, to the actual knowledge of Seller, any oral lease, agreement, commitment and contract, material to the Station or its operations, to which

Seller is a party or by which Seller or the Assets are bound. True and complete copies of all items referenced on Exhibit 1.1C and 1.1D have been or will be furnished to Buyer prior to Closing.

3.5 Permits and Licenses; Regulatory Compliance. Seller holds all authorizations, permits and licenses from the FCC and other regulatory agencies and authorities necessary for the operation of the Station, including the authorizations, permits and licenses described in Exhibit 1.1B. Seller has complied with, and has operated and is operating the Station in all material respects in accordance with the terms and conditions of all of said authorizations, orders, notices, requirements and other directives and in accordance with the laws, rules and regulations of the FCC and other regulatory agencies and authorities applicable to such operation, the failure to comply with which would jeopardize the transactions contemplated by this Agreement or otherwise materially adversely affect the Assets or the business or operation of the Station by Buyer. No proceedings are pending or, to the actual knowledge of Seller, threatened which may result in the revocation, modification, or suspension of any of said authorizations, the denial of any pending applications, the issuance of a cease and desist order or the imposition of any administrative sanction against Seller.

3.6 Litigation. Except as disclosed on Exhibit 3.6, there is no litigation, proceeding or investigation pending or, to the actual knowledge of the Seller, threatened in which the Seller is or will be a party and which would jeopardize consummation of the transactions contemplated by this Agreement or otherwise materially adversely affect the Assets or the business or operation of the Station by Buyer.

3.7 Employee Matters.

(a) Attached as Exhibit 3.7A hereto is a complete list of all employees of Seller employed in connection with the operation of the Station ("Employees"), together with a written description of the rates of pay and employment benefits (including bonus and vacation policy) applicable to Employees. Except as provided in Exhibit 3.7A, no Employee has any written employment agreement, and there is no Employee whose employment is not terminable at will without severance pay or other penalty.

(b) Seller has, to its actual knowledge, complied with all applicable federal, state, and local laws, ordinances, rules and regulations and requirements relating to the employment of the Employees, including but not limited to the provisions thereof relating to wages, hours, collective bargaining, payment of Social Security, unemployment and withholding taxes. Seller is not, to its actual knowledge, liable for any arrears of wages or any taxes or penalties for failure to comply with any of the foregoing. Seller has not had any written or, to Seller's actual knowledge, oral retirement, pension, profit sharing, bonus, hospitalization, vacation or other employee benefit plan, practice, agreement or understanding with respect to the Employees except as set forth on Exhibit 3.7B hereto.

(c) Seller has no contract, agreement or understanding, written or, to Seller's actual knowledge, oral, with any labor union or other labor organization or employee bargaining group with respect to any of the Employees, nor, to Seller's actual knowledge, has Seller been contacted by any such union, organization or group with respect to representation or organization of the Employees. No labor disturbances by the Employees have arisen or, to Seller's actual knowledge, been threatened which would adversely affect the business or business prospects of Seller or the Assets.

3.8 Taxes. Seller has filed or will file prior to the Closing all income tax returns, sales and use tax returns, all corporate franchise tax returns, any gross receipts or utility tax returns and all real and personal property tax returns which it is required to file with respect to the Assets on or prior to Closing, and has paid or will pay all taxes as shown on such returns and all assessments received to the extent that such taxes and assessments have become due and payable and are not being contested; provided, however, that Seller shall remain liable for all taxes accrued prior to the Closing Date, whether or not contested. Ad valorem and similar taxes relating to the real property being sold to Buyer hereunder for the calendar year of Closing shall be prorated as of Closing. If ad valorem tax information for the year of Closing is not available at the Closing, such proration shall be based upon the calendar year for the year immediately preceding the year of Closing. As soon as the amount of assessed taxes on the real property being sold to Buyer hereunder is finally determined for the year of



Closing, Seller and Buyer shall promptly adjust the proration of such taxes and Seller or Buyer, as the case may be, shall promptly pay to the other any amount required as a result of such adjustment. This Section 3.8 shall specifically survive the Closing.

#### ARTICLE IV

##### REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to the Seller that:

4.1 Corporate Organization, Good Standing and Approval. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas and has full power and authority to enter into this Agreement and to carry out the transactions contemplated hereby.

4.2 Authorization. The execution and delivery of this Agreement by Buyer and the performance of the transactions contemplated hereby have been duly and validly authorized by the Board of Directors of Buyer and all other necessary corporate action, and this Agreement constitutes a valid and binding agreement enforceable against Buyer in accordance with its terms.

4.3 Compliance. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not result in the breach of any of the terms and conditions of, constitute a default under or violate the Articles of Incorporation or Bylaws of Buyer, or any agreement, lease, mortgage, note, bond, indenture, license or other material document to which Buyer is a party or by which it is bound, or violate any law, rule, regulation, order, writ, injunction or decree of any court, administrative agency or governmental body.

4.4 Brokerage or Finder's Fee. Buyer has not employed any broker or finder or incurred any liability for any brokerage fees, commissions or finder's fees in connection with the transactions contemplated herein.

4.5 Qualification. To Buyer's knowledge, there are no facts existing which would, under present law (including the Communications Act of 1934, as amended) and present rules, regulations and practices of the FCC, disqualify Buyer as an assignee of the licenses, permits,